

ESTTA Tracking number: **ESTTA720633**

Filing date: **01/14/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	GoPro, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	3000 Clearview Way San Mateo, CA 94402 UNITED STATES		

Attorney information	Connie L. Ellerbach Fenwick & West LLP 801 California Street Mountain View, CA 94041 UNITED STATES trademarks@fenwick.com Phone:650-988-8500
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Registration Subject to Cancellation

Registration No	4272222	Registration date	01/08/2013
Registrant	Hero TV, Inc. 6208 85th Place New Carrollton, MD 20784 UNITED STATES		

Goods/Services Subject to Cancellation

Class 038. First Use: 2012/04/01 First Use In Commerce: 2012/04/01 All goods and services in the class are cancelled, namely: Electronic transmission of voice, data and images by television and video broadcasting

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	HERO TV and design Petition for Cancellation.pdf(3333476 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/cle1087/
Name	Connie L. Ellerbach
Date	01/14/2016

In the matter of
Trademark Registration No. 4272222
Registration Date: January 8, 2013
Mark: HERO TV (and design)

GoPro, Inc.,
Petitioner,

vs.

Hero TV, Inc.,
Registrant.

Cancellation No. _____

Petitioner, GoPro, Inc., a Delaware corporation having a principal place of business at 3000 Clearview Way, San Mateo, California 94402 (hereinafter “GoPro” or “Petitioner”), believes it is and will continue to be harmed by U.S. Registration No. 4272222 for the mark HERO TV (and design) and therefore petitions for cancellation of the Registration.

1. The United States Patent and Trademark Office issued Registration No. 4272222 on January 8, 2013, for the mark HERO TV (and design) for “Electronic transmission of voice, data and images by television and video broadcasting.”

2. Petitioner is the applicant of U.S. Trademark Application Number 86048213 for the mark HERO. Petitioner's mark is currently applied for in International Classes 9, 38, 41, and 42. Said trademark was filed on the Principal Register on August 26, 2013. A

A. Since at least as early as August 26, 2013, Petitioner has had a *bona fide* intent to use its

HERO trademark in commerce in connection with the applied-for goods and services, including entertainment and broadcasting services in various fields of interest.

3. On information and belief, Registrant, or any successor in interest, has abandoned any and all rights in the HERO TV (and design) mark, and specifically in Registration Number 4272222, through more than three years of non-use of the mark in connection with the services listed in the registration, namely, "Electronic transmission of voice, data and images by television and video broadcasting," and has no *bona fide* intent to resume use. As such, U.S. Registration No. 4272222 must be cancelled.

4. If U.S. Registration No. 4272222 is not cancelled, Registrant would continue to have at least a prima facie exclusive right to use a mark in connection with the services for which it has abandoned the mark. Such continued registration would be a source of damage and injury to Petitioner and the purchasing public.

WHEREFORE, Petitioner prays that this Petition for Cancellation be sustained, that Registrant's U.S. Registration No. 4272222 be cancelled pursuant to Lanham Act §14, 15 U.S.C. §1064.

Respectfully submitted,

Date: January 14, 2016

/Connie L. Ellerbach/

Connie L. Ellerbach, Esq.
Attorney for Petitioner
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
650-335-7663

EXHIBIT A

Trademark/Service Mark Application, Principal Register

Serial Number: 86048213

Filing Date: 08/26/2013

To the Commissioner for Trademarks:

MARK: HERO (Standard Characters, see mark)

The literal element of the mark consists of HERO.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Woodman Labs, Inc., a corporation of California, having an address of
3000 Clearview Way, Bldg E
San Mateo, California 94402
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 009: Photographic equipment, namely cameras, digital cameras, video cameras; portable handheld electronic devices for recording, storage, transmission or reproduction of photographic, video and multimedia content; cases, housings, and accessories for cameras, namely, batteries, lenses, digital photo viewers, wireless adapters, power adapters, adapter rings for attaching objects to cameras, remote controls, microphones, SD cards, photographic flash units, mounting devices for photographic equipment, tripods and camera straps; cases and bags for photographic apparatus; computer software for use in connection with photographic and video equipment and cameras; desktop and mobile photo and video editing software; computer software and software applications for use in uploading, downloading, editing, storing, distributing and sharing photographic and video content via global and local computer networks and via mobile devices; downloadable user generated photos and videos in the field of general interest

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 038: Video broadcasting; streaming of video material on the internet; broadcasting of audio and video content and programming over the internet; electronic delivery of images and photographs via a global computer network and via mobile electronic devices; electronic transmission and streaming of digital media content for others via global and local computer networks and via mobile electronic devices; streaming user generated photographic and video content via a website on the internet and via mobile electronic devices

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 041: Photographic and video services, namely, photographic and video capture; rental of photographic equipment, namely cameras, digital cameras, video cameras, camera cases, housings, and accessories for cameras, namely, batteries, lenses, digital photo viewers, wireless adapters, power adapters, adapter rings for attaching objects to cameras, remote controls, microphones, SD cards, photographic flash units, mounting devices for photographic equipment, tripods and camera straps; education; providing training, education, instruction, tips and advice in the field of photography and videography; providing photographic and video content on a website on the internet and via mobile devices for educational and entertainment purposes; entertainment; sporting and cultural activities; entertainment services, namely, providing a website featuring photographic, audio, video and multimedia presentations; provision of audio and video in the nature of digital images and videos; provision of downloadable multimedia files containing audio and video content; hosting and providing a database/library in the field of photography and videography; providing photographic and video content for the creation of television programs, television commercials, motion pictures and films; providing online journals, namely blogs, for sharing thoughts, ideas, experiences, comments, tips, techniques, and advice in the field of photography and videography ; providing conferences, trade shows, seminars, workshops and tutorials in the field of photography and videography
Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 042: Providing a web hosting platform for uploading, downloading, storing, distributing, editing and sharing photographic, video and multimedia content; providing temporary use of online non-downloadable software for use in uploading, downloading, storing, distributing, editing and sharing photographic, video and multimedia content via local and global computer networks and via mobile devices; providing temporary use of on-line non-downloadable cloud computing software for use in uploading, downloading, storing, distributing, editing and sharing photographic, video and multimedia content via local and global computer networks and via mobile devices; peer-to-browser photo sharing services, namely, providing a website featuring technology enabling users to upload, view, and download digital photos and videos; providing a web site featuring temporary use of non-downloadable software allowing web site users to upload on-line videos for sharing with others for entertainment purposes; providing a web site that gives computer users the ability to upload, exchange and share photos, videos and video logs; computer services, namely, providing search platforms to allow users to locate, access, copy, transmit, edit, and share photographic, video and multimedia content
Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant claims ownership of U.S. Registration Number(s) 3308141.

The applicant's current Attorney Information:

Connie L. Ellerbach and all other attorneys of Fenwick & West LLP

Silicon Valley Center
801 California Street
Mountain View, California 94041
United States

The attorney docket/reference number is 23769-00071.

The applicant's current Correspondence Information:

Connie L. Ellerbach
Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, California 94041
650-988-8500(phone)
650-938-5200(fax)
trademarks@fenwick.com (authorized)

A fee payment in the amount of \$1300 has been submitted with the application, representing payment for 4 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Nathan Bosshard/ Date: 08/26/2013
Signatory's Name: Nathan Bosshard
Signatory's Position: Senior Brand Manager
RAM Sale Number: 86048213
RAM Accounting Date: 08/27/2013

Serial Number: 86048213
Internet Transmission Date: Mon Aug 26 16:58:47 EDT 2013
TEAS Stamp: USPTO/BAS-XX.XXX.XXX.XXX-201308261658479
07391-86048213-50044b89baf9958f90321d594
39a5b685c8ba9eadcebd01b8c2173eb5512a69f7
7-DA-4555-20130826145047052450

HERO

PROOF OF SERVICE BY MAIL

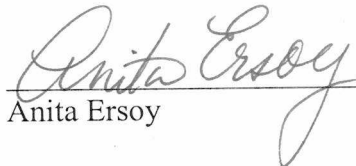
I declare that:

I am employed in the County of Santa Clara, California.

I am over the age of eighteen years and not a party to the within cause; my business address is Fenwick & West LLP, Silicon Valley Center, 801 California Street, Mountain View, CA 94041. On January 14, 2016, I served the within PETITION FOR CANCELLATION on the interested parties in said cause, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Mountain View, California, addressed as follows:

Hero TV, Inc.
6208 85th Place
New Carrollton, MD 20784
United States

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at Mountain View, California, this 14th day of January 2016.


Anita Ersoy